

By: Ortega, Thompson of Harris, Kuempel,
Giddings

H.B. No. 3088

Substitute the following for H.B. No. 3088:

By: Dean

C.S.H.B. No. 3088

A BILL TO BE ENTITLED

AN ACT

relating to exemptions for certain residential property owners from the applicability of certain regulations of residential mortgage loan companies and residential mortgage loan originators.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 156.202, Finance Code, is amended by amending Subsection (a-1) and adding Subsection (b) to read as follows:

(a-1) The following entities are exempt from this chapter:

(1) a nonprofit organization:

(A) providing self-help housing that originates zero interest residential mortgage loans for borrowers who have provided part of the labor to construct the dwelling securing the loan; or

(B) that has designation as a Section 501(c)(3) organization by the Internal Revenue Service and originates residential mortgage loans for borrowers who, through a self-help program, have provided at least 200 labor hours or 65 percent of the labor to construct the dwelling securing the loan;

(2) a mortgage banker registered under Chapter 157;

(3) subject to Subsection (b), any owner of residential real estate who in any 12-consecutive-month period makes no more than five residential mortgage loans to purchasers of the property for all or part of the purchase price of the

1 residential real estate against which the mortgage is secured; and

2 (4) an entity that is:

3 (A) a depository institution;

4 (B) a subsidiary of a depository institution that
5 is:

6 (i) owned and controlled by the depository
7 institution; and

8 (ii) regulated by a federal banking agency;

9 or

10 (C) an institution regulated by the Farm Credit
11 Administration.

12 (b) In determining eligibility for an exemption under
13 Subsection (a-1)(3), two or more owners of residential real estate
14 are considered a single owner for the purpose of computing the
15 number of mortgage loans made within the period specified by that
16 subdivision if any of the owners are affiliates, as defined by
17 Section 1.002(1), Business Organizations Code, or if any of the
18 owners have substantially common ownership, as determined by the
19 commissioner. In this subsection, "owners of residential real
20 estate" include corporations, limited partnerships, limited
21 liability companies, professional associations, cooperatives, and
22 real estate investment trusts.

23 SECTION 2. Section 157.0121, Finance Code, is amended by
24 amending Subsection (c) and adding Subsection (f) to read as
25 follows:

26 (c) Employees of the following entities, when acting for the
27 benefit of those entities, are exempt from the licensing and other

1 requirements of this chapter applicable to residential mortgage
2 loan originators:

3 (1) a nonprofit organization:

4 (A) providing self-help housing that originates
5 zero interest residential mortgage loans for borrowers who have
6 provided part of the labor to construct the dwelling securing the
7 loan; or

8 (B) that has designation as a Section 501(c)(3)
9 organization by the Internal Revenue Service and originates
10 residential mortgage loans for borrowers who, through a self-help
11 program, have provided at least 200 labor hours or 65 percent of the
12 labor to construct the dwelling securing the loan;

13 (2) subject to Subsection (f), any owner of
14 residential real estate who in any 12-consecutive-month period
15 makes no more than five residential mortgage loans to purchasers of
16 the property for all or part of the purchase price of the
17 residential real estate against which the mortgage is secured; and

18 (3) an entity that is:

19 (A) a depository institution;

20 (B) a subsidiary of a depository institution that
21 is:

22 (i) owned and controlled by the depository
23 institution; and

24 (ii) regulated by a federal banking agency;

25 or

26 (C) an institution regulated by the Farm Credit
27 Administration.

1 (f) In determining eligibility for an exemption under
2 Subsection (c)(2), two or more owners of residential real estate
3 are considered a single owner for the purpose of computing the
4 number of mortgage loans made within the period specified by that
5 subdivision if any of the owners are affiliates, as defined by
6 Section 1.002(1), Business Organizations Code, or if any of the
7 owners have substantially common ownership, as determined by the
8 commissioner. In this subsection, "owners of residential real
9 estate" include corporations, limited partnerships, limited
10 liability companies, professional associations, cooperatives, and
11 real estate investment trusts.

12 SECTION 3. Section 180.003, Finance Code, is amended by
13 amending Subsection (a) and adding Subsection (d) to read as
14 follows:

15 (a) The following persons are exempt from this chapter:

16 (1) a registered mortgage loan originator when acting
17 for an entity described by Section 180.002(16)(A)(i), (ii), or
18 (iii);

19 (2) an individual who offers or negotiates terms of a
20 residential mortgage loan with or on behalf of an immediate family
21 member of the individual;

22 (3) a licensed attorney who negotiates the terms of a
23 residential mortgage loan on behalf of a client as an ancillary
24 matter to the attorney's representation of the client, unless the
25 attorney:

26 (A) takes a residential mortgage loan
27 application; and

1 (B) offers or negotiates the terms of a
2 residential mortgage loan;

3 (4) an individual who offers or negotiates terms of a
4 residential mortgage loan secured by a dwelling that serves as the
5 individual's residence;

6 (5) subject to Subsection (d), an owner of residential
7 real estate who in any 12-consecutive-month period makes no more
8 than five residential mortgage loans to purchasers of the property
9 for all or part of the purchase price of the residential real estate
10 against which the mortgage is secured; and

11 (6) subject to Subsection (d), an owner of a dwelling
12 who in any 12-consecutive-month period makes no more than five
13 residential mortgage loans to purchasers of the property for all or
14 part of the purchase price of the dwelling against which the
15 mortgage or security interest is secured.

16 (d) In determining eligibility for an exemption under
17 Subsection (a)(5) or (6), two or more owners of residential real
18 estate or a dwelling, as applicable, are considered a single owner
19 for the purpose of computing the number of mortgage loans made
20 within the period specified by those subdivisions if any of the
21 owners are affiliates, as defined by Section 1.002(1), Business
22 Organizations Code, or if any of the owners have substantially
23 common ownership, as determined by the savings and mortgage lending
24 commissioner.

25 SECTION 4. This Act takes effect September 1, 2017.